

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICHOLAS LOPEZ,
Plaintiff,

v.

THE SHERWIN-WILLIAMS COMPANY, *et*
al.,
Defendants.

Case No. 2:24-cv-01021-JAD-NJK

Order

[Docket No. 37]

Pending before the Court is Plaintiff's motion to compel. Docket No. 37. Defendants filed a response. Docket No. 45. Plaintiff filed a reply. Docket No. 46. The motion is properly resolved without a hearing. *See* Local Rule 78-1.

I. Background

The instant case arises from a motor vehicle and motorcycle collision involving Plaintiff and Defendant Mendez, who at the time of collision, was allegedly driving within the course and scope of his employment with Defendant The Sherwin-Williams Company ("Sherwin-Williams"). Docket No. 37 at 4. Plaintiff alleges that Defendant Mendez was driving, in a company furnished vehicle, from a client meeting to a Sherwin-Williams store when the collision occurred and that driving to meet with clients was a part of Defendant Mendez's regular job duties. *Id.* In addition to general negligence claims, Plaintiff asserts claims against Defendant Sherwin-Williams for negligent hiring, training, supervising, and retaining Defendant Mendez. *Id.*

Plaintiff seeks to compel training materials on the following topics: (1) pre-trip safety; (2) on the road safety; (3) supplemental driver guide; and (4) health and safety for drivers. Docket No. 37 at 5.

II. Discovery Standards

“The discovery process in theory should be cooperative and largely unsupervised by the district court.” *Sali v. Corona Reg’l Med. Ctr.*, 884 F.3d 1218, 1219 (9th Cir. 2018). When an amicable resolution to a discovery dispute cannot be attained, however, a party seeking discovery may move the Court to issue an order compelling that discovery. Fed. R. Civ. P. 37(a). The party seeking to avoid discovery bears the burden of showing why that discovery should not be permitted. *V5 Techs. v. Switch, Ltd.*, 334 F.R.D. 306, 309 (D. Nev. 2019). “The party resisting discovery must specifically detail the reasons why each request is irrelevant or otherwise objectionable, and may not rely on boilerplate, generalized, conclusory, or speculative arguments.” *F.T.C. v. AMG Servs., Inc.*, 291 F.R.D. 544, 553 (D. Nev. 2013). Arguments against discovery must be supported by “specific examples and articulated reasoning.” *E.E.O.C. v. Caesars Ent.*, 237 F.R.D. 428, 432 (D. Nev. 2006).

District courts enjoy wide discretion in deciding relevancy for discovery purposes. *E.g.*, *Shaw v. Experian Info. Solutions., Inc.*, 306 F.R.D. 293, 296 (S.D. Cal. 2015). To be permissible, discovery must be “relevant to any party’s claim or defense.” *In re Bard IVC Prod. Liab. Litig.*, 317 F.R.D. 562, 563-64 (D. Ariz. 2016) (discussing impact of 2015 amendments to definition of relevance for discovery purposes). Even after the 2015 amendments to the discovery rules, relevance remains broad in scope. *See, e.g., Fed. Nat’l Mrtg. Assoc. v. SFR Investments Pool 1, LLC*, 2016 WL 778368, at *2 n.16 (D. Nev. Feb. 25, 2016).

III. Analysis

Plaintiff submits that he learned of the four training topics at issue when reviewing a “learning assignment status report” which showed that Defendant Mendez completed the training topics prior to the collision. Docket No. 37 at 7. Plaintiff submits that, because he maintains claims against Defendant Sherwin-Williams for negligent training, information regarding the training provided to Defendant Mendez regarding driving is “highly relevant.” *Id.* at 12. Plaintiff further submits that his claims center on Defendant Mendez’s driving, that Defendant Mendez was driving in the course and scope of his employment, that Defendant Mendez was driving a company

1 vehicle provided to him by Defendant Sherwin-Williams during the collision, and that Defendant
2 Mendez's job required him to drive. *Id.*

3 Defendants submit that the materials at issue "apply *only* to Sherwin-Williams' commercial
4 delivery vehicles." Docket No. 45 at 1 (emphasis in original). Defendants submit that, at the time
5 of the collision, Defendant Mendez was driving a "non-commercial Chevrolet Malibu sedan."
6 *Id.* at 2. Further, Defendants submit that some of the materials either do not relate to driving or
7 are no longer available. *Id.* Defendants also submit that, while Defendant Mendez did review the
8 subject materials, he did so three years prior to the accident and as part of his prior role as a store
9 manager, which involved commercial delivery vehicles. *Id.* Although the presentation of
10 argument on these issues is at times commingled, the Court will address separately each training
11 material.

12 a. Driver Safety Part 1: Pre Trip Safety

13 Defendants submit that this training material is an online delivery driver course that
14 involves how to perform daily vehicle inspections, how to read a bill-of-lading, and how to secure
15 delivery loads properly. Docket No. 45 at 4. Plaintiff submits that while "Defendant Mendez may
16 not have been driving a big-rig truck at the time of the crash, he was operating a Sherwin-Williams
17 vehicle for commercial purposes nonetheless." Docket No. 46 at 4. The Court is not persuaded
18 that this discovery is relevant, as the requested information does not relate to sales representatives
19 or non-commercial cars like the vehicle Defendant Mendez was driving at the time of the collision.
20 Accordingly, the Court denies this aspect of the motion to compel.

21 b. Driver Safety Part II: On the Road Safety

22 Defendants submit that this training material is an online delivery driver course that covers
23 the qualifications necessary to drive delivery vehicles, Department of Transportation inspections,
24 and how to handle dangers that delivery drivers might face in their roles such as theft of the
25 products inside the vehicles. Docket No. 45 at 4. Plaintiff submits that, while Defendant Mendez
26 did not have the title of a "delivery-driver, on the day of the collision, he had dropped off some
27 materials to a customer...at their home, slash office," and thus, was a delivery driver at the time
28 of the collision. Docket No. 46 at 5. The Court is not persuaded that "dropping off some materials

1 to a customer” in a non-commercial sedan transforms Defendant Mendez into a delivery driver
2 that would make these materials applicable to him. The requested information is specific to the
3 operation of a commercial vehicle used to deliver products, not the operation of a non-commercial
4 vehicle operated by a sales representative. Accordingly, the Court denies this aspect of the motion
5 to compel.

6 c. Supplemental Driver Guide

7 Defendants submit that this guide is applicable only to delivery vehicles. Docket No. 45
8 at 4-5. Defendants acknowledge that, while some portions of the guide generally relate to driving,
9 other materials concerning those policies have already been produced through other documents.
10 *Id.* at 5. The Court finds that this guide is disproportional to the needs of the case as Defendants
11 have provided a slew of other materials that relate to driving, *see id.* at 2-3, and that this particular
12 guide is not relevant as it relates to driving a delivery vehicle. Accordingly, the Court denies this
13 aspect of the motion to compel.

14 d. Health and Safety for Drivers

15 Defendants submit that this training relates only to delivery drivers and commercial
16 delivery vehicles. Docket No. 45 at 5. Defendants further submit that this is a course from 2019
17 that is no longer available, and that Defendants have already produced the driving training
18 materials applicable to driving non-commercial cars. *Id.* Plaintiff offers no discussion regarding
19 the representation that this material does not exist. *See* Docket No. 46.

20 Where a party asserts that it does not have responsive documents or electronically stored
21 information, it must come forward with an explanation of the search conducted “with sufficient
22 specificity to allow the court to determine whether the party made a reasonable inquiry and
23 exercised due diligence.” *Rogers v. Giurbino*, 288 F.R.D. 469, 485 (S. D. Cal. 2012). Information
24 regarding the search conducted should be provided through declarations under oath detailing the
25 nature of the efforts to locate responsive documents. *Edgerton v. Hillard*, No. 2:23-cv-00693-
26 APG-NJK, 2025 U.S. Dist. LEXIS 16596, at *6 (D. Nev. Jan. 29, 2025).

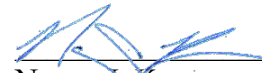
1 Accordingly, this aspect of the motion to compel is granted. No later than August 13, 2025,
2 Defendants must conduct a reasonable inquiry and exercise due diligence in searching for the
3 training material. If the online course indeed does not exist, Defendants must provide to Plaintiff
4 a declaration describing the efforts undertaken to locate the course.

5 **IV. Conclusion**

6 Accordingly, for the reasons stated above, Plaintiff's motion to compel is **GRANTED** in
7 part and **DENIED** in part. Docket No. 37.

8 IT IS SO ORDERED.

9 Dated: August 6, 2025

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11 Nancy J. Koppe
12 United States Magistrate Judge
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